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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/637,097	08/08/2003	Yu Zheng	PAT-1130CC2	5018

7590 03/31/2005

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12420 Woodhall Way  
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EXAMINER
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WILKENS, JANET MARIE

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 03/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/637,097	ZHENG, YU	
	<b>Examiner</b>	<b>Art Unit</b>	
	Janet M. Wilkens	3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 18, 20-23 and 28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18, 20-23 and 28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

Receipt is acknowledged of a request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e) and a submission, filed on January 24, 2005.

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 18, 20-23 and 28 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4 of U.S. Patent No. 6,604,537. Although the conflicting claims are not identical, they are not patentably distinct from each other because both the instant invention and patent teach a pair of foldable panels removably attached at adjacent edges thereof via stitching and sleeves. Since the frames of the folding panels are themselves foldable it would be obvious to twist and/or fold them in a manner wherein concentric rings are formed.

Claims 18, 20-22 and 28 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 2, 10, 11, 13, 15, 17-19, 21, 23 and 24 of U.S. Patent No. 6,209,557. Although the conflicting claims

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are not identical, they are not patentably distinct from each other because both the instant invention and patent teach a pair of foldable panels removably attached at adjacent edges thereof via sleeves. Since the frames of the folding panels are themselves foldable it would be obvious to twist and/or fold them in a manner wherein concentric rings are formed.

Claims 18, 20-23 and 28 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3, 8 and 12 of U.S. Patent No. 5,778,915. Although the conflicting claims are not identical, they are not patentably distinct from each other because both the instant invention and patent teach a pair of foldable panels removably attached at adjacent edges thereof via stitching and sleeves. Since the frames of the folding panels are themselves foldable it would be obvious to twist and/or fold them in a manner wherein concentric rings are formed.

Claims 18, 20-22 and 28 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5 and 9-12 of U.S. Patent No. 5,579,799. Although the conflicting claims are not identical, they are not patentably distinct from each other because both the instant invention and patent teach a pair of foldable panels removably attached at adjacent edges thereof via sleeves. Since the frames of the folding panels are themselves foldable it would be obvious to twist and/or fold them in a manner wherein concentric rings are formed.

Claims 18, 20-23 and 28 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 2 and 5 of U.S.

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Patent No. 5,560,385. Although the conflicting claims are not identical, they are not patentably distinct from each other because both the instant invention and patent teach a pair of foldable panels removably attached at adjacent edges thereof via stitching and sleeves. Since the frames of the folding panels are themselves foldable it would be obvious to twist and/or fold them in a manner wherein concentric rings are formed.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 18, 20-22 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Springer. Springer teaches a collapsible structure (Fig. 3) comprised of a side member (14) and base member (16), each including a foldable frame member (32,34) and having fabric there over. The side and base members being hingedly attached at their bottom/side respectively via separate sleeves (three separate members 36) and fold on top of each other forming concentric rings. Note: limitations found in "for"/intended use statements have been given no weight in the claims.

Claims 18, 20-23 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Norman. Norman teaches a collapsible structure (Fig. 1; laying one member 102 on the floor) comprised of a side member (102) and base member (102 member on floor), each including a foldable frame member and having fabric there over.

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The side and bottom members being hingedly attached at their bottom/side respectively via separate sleeves and stitching (110; see Fig. 8) and fold on top of each other forming concentric rings. Note: limitations found in "for"/intended use statements have been given no weight in the claims.

### ***Response to Arguments***

Applicant's arguments filed January 24, 2005 have been fully considered but they are not persuasive.

Addressing the arguments concerning the 102(b) rejection over Springer: the examiner contends that Springer teaches all of the features specified and positively recited in the claims, including first and second separate sleeves. Sleeves 36 are spaced from each other and retain both the members. Furthermore, connectors/members 36 can be considered "sleeves" because they are "an encasement into which an object or device fits". (*Second College Edition the American Heritage Dictionary*) Nowhere in the claims is the limitation that the members are individually retained in different sleeves positively claimed. Furthermore, as noted above, limitations found in "for"/intended use statements have been given no weight in the claims. Therefore, the limitation that "each sleeve retains most of the length of the respective frame member" has not been given any weight.

Addressing the arguments concerning the 102(b) rejection over Norman: the examiner contends that Norman teaches all of the features specified and positively recited in the claims, including the base and frame member. As stated above, by laying

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one member 102 on the floor, the structure, which is already in its erected/deployed configuration, is then comprised of a side member (102) and base member (102 member on floor). The terms "side" and "base" being relative depending on the positioning of the entire structure. Furthermore, the examiner argues that the structure would still be operable even if one of the members (102) is placed on the floor; the structure maintaining its shape and function regardless of its positioning.

All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

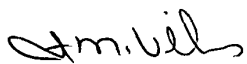
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet M. Wilkens whose telephone number is (703) 308-2204. (Starting April 8, 2005: (571) 272-6869) The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (703) 308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Wilkens  
March 24, 2005

  
JANET M. WILKENS  
PRIMARY EXAMINER  
Art Unit 3637